

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

RECEIVED

APR 8 1997

TO: MR. WILLIAM CATON
ACTING SECRETARY
FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET NW - ROOM 222
WASHINGTON, DC 20554

REC MAIL ROOM

DEAR MR. SECRETARY:

PETITION FOR RULEMAKING

NOW COMES JAMES J. McCLUSKEY, AN INDIVIDUAL, AND COUNTERPROPOSES THE COMMISSION'S ALLOCATION OF CHANNEL 255A (98.9Mhz) TO WALHALLA, MICHIGAN, IN MASS MEDIA DOCKET 97-118 (RM 9061) BY REQUESTING THE NON-COMMERCIAL ALLOCATION OF CHANNEL 255A AT BIG RAPIDS, MICHIGAN.

THE ALLOCATION OF CHANNEL 255A MADE BE MADE CONSISTENT WITH THE RULES AND REGULATIONS OF THE COMMISSION AS SHOWN BY EXHIBIT A, IF THE WALHALLA "HELD" STATUS OF CHANNEL 255 IS RELEASED. IT IS PETITIONER'S UNDERSTANDING THAT THE COMMISSION MADE THE CHANNEL 255 PROPOSAL AT WALHALLA ON ITS OWN AND HAS NOT FORMALLY ACTED OTHER THAN TO "HOLD" CHANNEL 255 PENDING THE RESOLUTION OF THIS DOCKET.

PETITIONER FEELS THAT THE ORIGINAL PETITION OF HOPPE FOR CHANNEL 274A AT WALHALLA AS NOTED IN THE NOTICE OF PROPOSED RULEMAKING ADOPTED APRIL 9, 1997, IS APPROPRIATE AS A FIRST SERVICE TO WALHALLA AND THAT CHANNEL 255 SHOULD BE ALLOCATED TO BIG RAPIDS AS ITS FIRST NON-COMMERCIAL CHANNEL.

A STUDY OF ALL COMMERCIAL CHANNELS, 221 THROUGH 300, REVEALS THAT NO OTHER CHANNEL WILL WORK WITH THESE PARAMETERS AT OR WITHIN THE AREA AROUND BIG RAPIDS. (SEE EXHIBIT B, ATTACHED.) SINCE CHANNEL 274A DOES WORK AT WALHALLA AS ORIGINALLY PROPOSED, BOTH COMMUNITIES COULD HAVE SERVICE PROVIDED UNDER THIS PROPOSAL.

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REGARDING THE APPLICATION OF BAY VIEW BROADCASTING, INC. ("BAY VIEW"), BMPH-970319IE, IT IS PETITIONER'S CONTENTION THAT THEY ARE NOT ENTITLED TO A PREFERENCE AS PRESENTED IN THEIR REPLY COMMENTS AND OPPOSITION DATED JULY 21, 1997.

BAY VIEW FILED AFTER THE PETITION BY HOPPE.

BAY VIEW IS ALREADY A SECOND AURAL AND LOCAL SERVICE IN ITS COMMUNITY.

PETITIONER'S CONSULTANT HAS DISCUSSED THIS ENTIRE SITUATION WITH HOPPE AND HOPPE REAFFIRMS HIS INTENTION TO APPLY FOR CHANNEL 274A AT WALHALLA IF IT IS GRANTED AS ORIGINALLY PROPOSED. HOPPE IS IN AGREEMENT WITH PETITIONER THAT THIS PETITION REPRESENTS A MORE FAIR AND EQUITABLE DISTRIBUTION OF CHANNELS UNDER THE RULES OF THE COMMISSION.

THE COMMISSION HAS ALREADY DEEMED WALHALLA TO BE A COMMUNITY FOR ALLOCATION PURPOSES AND PROPOSED CHANNEL 274A AS ITS FIRST SERVICE AND AS THE FIRST SERVICE TO LAKE COUNTY, MICHIGAN. EVEN THOUGH WALHALLA IS IN MASON COUNTY, IT IS TO THE EASTERN SIDE OF THE COUNTY AND WOULD PUT NEARLY HALF ITS SIGNAL INTO LAKE COUNTY, WHICH HAS NO LOCAL SERVICE PRESENTLY ALLOCATED.

BAY VIEW'S STATION IS THE SECOND ALLOCATED TO A SMALL COMMUNITY AND THE COUNTY HAS MANY GRADE A SIGNALS ALREADY PRESENT. WALHALLA WOULD BE BETTER SERVED BY THE ORIGINAL PROPOSAL THUS LEAVING THE COMMISSION FREE TO ALLOCATED CHANNEL 255A TO BIG RAPIDS AS PROPOSED BY THIS PETITIONER.

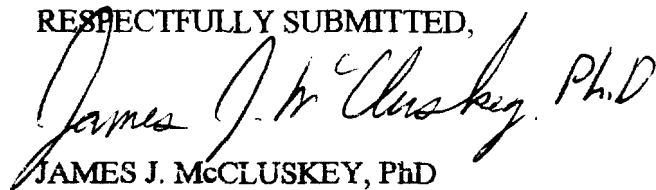
PETITIONER HEREBY DECLARES HIS INTENTION OF FILING FOR A CONSTRUCTION PERMIT TO BUILD AND OPERATE A NON-COMMERCIAL FACILITY ON CHANNEL 255A AT BIG RAPIDS, MICHIGAN, WHEN THE COMMISSION PROVIDES SUCH ALLOCATION.

PETITIONER BELIEVES THAT THIS PETITION WILL FACILITATE THE FAIR AND EQUITABLE ALLOCATION OF FREQUENCIES TO BOTH WALHALLA AND BIG RAPIDS AND THAT BOTH COMMUNITIES WILL BENEFIT FROM THESE SERVICES.

THEREFORE, PETITIONER RESPECTFULLY REQUESTS THAT THE COMMISSION APPROVE THIS PETITION AS PROMPTLY AS POSSIBLE AND DENY BAY VIEW'S OPPOSITION AT WALHALLA AS DOING SO WILL NOT HARM BAY VIEW AND WILL PROVIDE ONE COMMUNITY PRESENTLY WITHOUT SERVICE WITH ITS FIRST LOCAL SERVICE AND A SECOND COMMUNITY WITHOUT NON-COMMERCIAL SERVICE ITS FIRST SERVICE OF THIS TYPE.

IN ACCORDANCE WITH THE COMMISSION'S RULES, I HAVE FILED THIS PETITION FOR THE PURPOSE OF PROVIDING NEW BROADCAST SERVICE TO BIG RAPIDS, MICHIGAN, AND NOT FOR THE PURPOSE OF IMPEDING ANY PENDING PROPOSAL OR ACTION BY THE COMMISSION. ALL CONTENTS HEREOF ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

RESPECTFULLY SUBMITTED,

A handwritten signature in cursive script that reads "James J. McCluskey, Ph.D." The signature is written in dark ink and is positioned above the printed name.

JAMES J. McCLUSKEY, PhD
POST OFFICE BOX 334
STANWOOD, MI 49346

DAVID C. SCHABERG

3105 South Martin Luther King Blvd. Lansing Michigan 48910

98.9 AT BIG RAPIDS WITH WALHALLA CO-CHANNEL
PROPOSAL MOVED TO CHANNEL 263AREFERENCE
43 39 49 N
85 28 54 WCLASS = A
Current SpacingsDISPLAY DATES
DATA 06-19-97
SEARCH 03-30-98

----- Channel 255 - 98.9 MHz -----

Call	Channel	Location		Dist	Azi	FCC	Margin
AD255	AD 255A	Walhalla	MI	61.45	295.9	115.0	-53.55
WFGR	LI 254A	Grand Rapids	MI	72.24	194.0	72.0	0.24
WKLZ	LI 255C1	Petoskey	MI	205.95	11.6	200.0	5.95
WUPS	LI 253C1	Houghton Lake	MI	91.35	40.2	75.0	16.35
WFMK	LI 256B	East Lansing	MI	135.70	143.7	113.0	22.70
WLCS	LI 252A	North Muskegon	MI	75.35	235.3	31.0	44.35
WOWE	LI 255A	Vassar	MI	164.63	103.6	115.0	49.63
WBNZ	LI 257C2	Frankfort	MI	118.42	333.0	55.0	63.42
ALOPEN	AL 255A	Two Rivers	WI	180.46	284.6	115.0	65.46
AP201	AP 201A	Muskegon	MI	75.79	235.6	10.0	65.79
AP255	AP 255A	Two Rivers	WI	180.82	285.0	115.0	65.82
AP255	AP 255A	Two Rivers	WI	181.08	284.2	115.0	66.08
AP255	AP 255A	Two Rivers.	WI	181.08	284.2	115.0	66.08
AP255	AP 255A	Two Rivers	WI	181.08	284.2	115.0	66.08
AP255	AP 255A	Two Rivers	WI	181.08	284.2	115.0	66.08
AP202	AP 202C2	White Star	MI	81.72	66.3	15.0	66.72
WJQK	LI 257A	Zeeland	MI	101.72	202.4	31.0	70.72
AP201	AP 201A	Muskegon	MI	81.29	238.3	10.0	71.29
WYCE.A	AP 201B1	Wyoming	MI	85.06	191.2	12.0	73.06

CERTIFICATE OF SERVICE

I, JAMES J. McCLUSKEY, CERTIFY THAT I HAVE THIS 2nd DAY
OF April 1998, SENT BY REGULAR UNITED STATES MAIL, POSTAGE
PREPAID, A COPY OF THE FOREGOING PETITION TO THE FOLLOWING:

MR. JOHN A KAROUSOS
CHIEF, ALLOCATIONS BRANCH
POLICY AND RULES DIVISION
MASS MEDIA BUREAU
FCC 2025 M STREET NW - ROOM 8322
WASHINGTON, DC 20554

ROGER LEWIS HOPPE II
12013 U. S. 131 SOUTH
BEAR LAKE, MI 49614

PATRICK L. LOPEMAN
PRESIDENT
BAY VIEW BROADCASTING, INC.
4359 SOUTH HOWELL AVENUE
SUITE 106
MILWAUKEE, WI 53207